IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

MONDAY, THE 20TH AUGUST 2007 / 29TH SRAVANA 1929

WP(C).No. 33625 of 2005(C)

AGAINST THE ORDER DATED 07/07/2005 IN IA 1075/05 IN OS.390/2002 of MUNSIFF COURT, CHALAKUDY

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PETITIONER:

FRANCIS,
S/O. VENNATTUPARAMBIL DEVASSYKUTTY,
PARIYARAM DESOM AND VILLAGE, MUKUNDAPURAM TALUK.

BY ADV. SRI.K.G.BALASUBRAMANIAN

RESPONDENTS:

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1. ST. GEORGE CHURCH,
PARIYARAM DESOM AND VILLAGE, MUKUNDAPURAM TALUK,
REPRESENTED BY ITS VICAR.

2. AUGUSTHY, S/O. CHERPANATH MATHEW,
PARIYARAM DESOM AND VILLAGE, MUKUNDAPURAM TALUK.

3. JOSE, S/O. VENNATTUPARAMBIL SANI,
PARIYARAM DESOM AND VILLAGE, MUKUNDAPURAM TALUK.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 20/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX(WPC 33625/05)

PETITIONER'S EXTS.:

EXT.P1: TRUE COPY OF ORDER DATED 7.7.2005 ON I.A.1075/05 IN O.S.NO.390/02 IN COURT BELOW.

EXT.P2: TRUE COPY OF ORDER DATED 7.7.2005 ON I.A.NO.1076/05 IN O.S.NO.390/02 IN COURT BELOW.

PIUS C. KURIAKOSE,J.

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W.P.(C) No.33625 of 2005

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Dated: 20th August, 2007

JUDGMENT

Even though respondents were served with notice, they have not entered appearance before this court for resisting the prayers in the Writ Petition.

2. Mr.K.G.Balasubramanian, learned counsel for the petitioner addressed me on the various grounds raised in the Writ Petition. The impugned orders are Exts.P1 and P2 by which the learned Munsiff have dismissed the applications respectively filed for reception of list of witnesses and list of documents. Delay seems to be the reason which weighed with the learned Munsiff for dismissing the applications. But it is brought to my notice that I.A.Nos.814/05 and 964/05 seeking amendment of the plaint had been filed even prior to the applications resulting in Exts.P1 and P2 and those applications were pending. Since two applications for amendment of the plaint were pending and the possibility that those amendment applications being allowed by the learned Munsiff could not have been ruled out, it was not proper on the part of the learned Munsiff to have dismissed the two applications filed by the petitioner for reception of list of witnesses and list of documents. I set aside Exts.P1 and P2 and allow

I.A.Nos.1075 of 2005 and 1076 of 2005. I also direct the learned Munsiff to take up I.A.Nos.814/05 and 964/05 and dispose of those two applications early. Once those two applications are disposed of, the learned Munsiff will special list the suit for trial and dispose of the same in accordance with law.

The Writ Petition is allowed to the above extent. No costs.

srd **PIUS C.KURIAKOSE, JUDGE**